

§ 203.356

§ 203.356 Notice of foreclosure and pre-foreclosure sale; reasonable diligence requirements.

(a) *Notice of foreclosure and pre-foreclosure sale.* The mortgagee must give notice to the Secretary, in a format prescribed by the Secretary, within 30 days after the institution of foreclosure proceedings. The mortgagee must give notice to the Secretary, in a format prescribed by the Secretary, within the time-frame prescribed by the Secretary, of the acceptance of any mortgagor into the pre-foreclosure sale procedure.

(b) *Reasonable diligence.* The mortgagee must exercise reasonable diligence in prosecuting the foreclosure proceedings to completion and in acquiring title to and possession of the property. A time frame that is determined by the Secretary to constitute "reasonable diligence" for each State is made available to mortgagees.

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§ 203.357 Deed in lieu of foreclosure.

(a) *Mortgagors owning one property.* In lieu of instituting or completing a foreclosure, the mortgagee may acquire property from one other than a corporate mortgagor by voluntary conveyance from the mortgagor who certifies that he does not own any other property subject to a mortgage insured or held by FHA. Conveyance of the property by deed in lieu of foreclosure is approved subject to the following requirements:

(1) The mortgage is in default at the time the deed is executed and delivered;

(2) The credit instrument is cancelled and surrendered to the mortgagor;

(3) The mortgage is satisfied of record as a part of the consideration for such conveyance;

(4) The deed from the mortgagor contains a covenant which warrants against the acts of the grantor and all claiming by, through, or under him and conveys good marketable title;

(5) The mortgagee transfers to the Commissioner good marketable title accompanied by satisfactory title evidence.

(b) *Corporate mortgagors.* A mortgagee may accept a deed in lieu of foreclosure

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from a corporate mortgagor in compliance with the requirements of paragraph (a) of this section, if the mortgagee obtains the prior written consent of the Commissioner.

(c) *Mortgagors owning more than one property.* The mortgagee may accept a deed in lieu of foreclosure in compliance with the provisions of paragraph (a) of this section, from an individual who owns more than one property which is subject to a mortgage insured or held by the FHA if the mortgagee obtains the prior written consent of the Commissioner.

§ 203.358 Direct conveyance of property.

In acquiring the property or conveying the property to the Commissioner the mortgagee may arrange for the deed to be made directly to the Commissioner from the mortgagor or other grantor. The mortgagee shall be responsible for determining that such conveyance will comply with all of the provisions of this part conveying good marketable title and satisfactory title evidence.

§ 203.359 Time of conveyance to the Secretary.

(a) *For mortgages insured under firm commitments issued prior to November 19, 1992 or under direct endorsement processing where the credit worksheet was signed by the mortgagee's approved underwriter prior to November 19, 1992.* After acquiring good marketable title to and possession of the property the mortgagee must transfer the property to the Secretary:

(1) Within 30 days after acquiring possession of the mortgaged property by foreclosure or other means; or

(2) Within such further time as may be necessary to complete the title examination and perfect the title.

(b) *For mortgages insured under firm commitments issued on or after November 19, 1992, or under direct endorsement processing where the credit worksheet was signed by the mortgagee's underwriter on or after November 19, 1992—*(1) *Conveyance by the mortgagee.* The mortgagee must acquire good marketable title and transfer the property to the Secretary within 30 days of the later of: